

01371

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

M. Boyle
Proc I

FILE: B-186811
MATTER OF: ACAS, Inc.

DATE: December 15, 1976

DIGEST:

1. Contention that low bidder is improperly licensed for commercial pest control by State of Florida because it does not have certified pest control operator within meaning of sections 482.071 and 482.152 of Florida Statutes is not for consideration by GAO, since licensing of pest control companies in Florida is within authority of State.
2. Protest approximately 5 months after contract award that insufficient number of sources were solicited and offeror was not given adequate notice to prepare offer will not be considered because it is untimely under Bid Protest Procedures.
3. Protest more than 2 months after contract award that may be against one bidder being passed over in favor of another is untimely.

ACAS, Inc., protests the award of a contract to Dead Bug Edwards for ground application of pesticides under invitation for bids (IFB) No. 139-M-APHIS-76, issued by the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Four bids were received in response to the IFB. The low bid was submitted by Dead Bug Edwards at a price per hour per spray machine and crew of \$37.88. ACAS submitted the next low bid at a rate of \$37.95. The IFB stated that offers received from offerors not licensed by the State of Florida, Division of Health, for commercial pest control would not be considered. Dead Bug Edwards indicated in its bid that its Florida Commercial Pest Control License number was 385.

Promptly after bid opening, ACAS filed a formal bid protest with the agency contending that Dead Bug Edwards was not qualified for a license under Florida law. After the Florida State Licensing Bureau verified that Dead Bug Edwards was properly certified and licensed to engage in pest control in the State, the agency awarded the contract to Dead Bug Edwards.


B-186811

The thrust of ACAS' protest before our Office is that Dead Bug Edwards does not have a "certified pest control operator" and thus is not qualified for a license under Florida law because sections 482.071 and 482.152 of the Florida Statutes provide that a license may not be issued to a pest control business unless its pest control activities are in charge of a "certified operator" whose primary occupation is in the pest control industry. That contention is not for consideration by our Office because licensing of pest control companies in Florida is within the authority of the State of Florida and the record indicates that the awardee is licensed for such activity in Florida.

ACAS also protests, in its letter received in our Office on July 20, 1976, the award of a contract under request for proposals No. 97-M-APHIS-76 on February 26, 1976, because in its view an insufficient number of sources were solicited and it was not permitted adequate time to prepare its offer submitted under the name, P. C. Group. These contentions will not be considered because they are untimely under our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) and (2) (1976), since they were filed approximately 5 months after the contract award. Postal Data Corporation, B-187466, November 8, 1976, 76-2 CPD ____; Hunter Outdoor Products, Inc., 54 Comp. Gen. 276, 280 (1974), 74-2 CPD 207.

ACAS also requests that our Office review the procurement under IFB No. 125-M-APHIS-76, but ACAS provides no specific reason for the protest. We note that on May 6, 1976, ACAS was the low bidder in response to that IFB and was awarded a contract for 250 hours, the full amount on which it bid. Therefore, the basis for protest is not apparent. To the extent that ACAS may be concerned that the next low bid of Dead Bug Edwards was passed over in favor of the third low bidder who was awarded a contract on May 7, 1976, for the balance of the required hours, a protest on that basis more than 2 months after the award would be untimely. See Hunter Outdoor Products, Inc., *supra*. However, Dead Bug Edwards did protest after its bid was rejected and a decision sustaining the rejection for the bidder's failure to acknowledge an IFB amendment was issued subsequently by our Office. A copy of Dead Bug Edwards Company, B-186811, July 15, 1976, 76-2 CPD 57, is being forwarded to ACAS with this decision for its information.

In view of the foregoing, ACAS' protests will not be considered.


Paul G. Deabling
General Counsel